

THE CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

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In the Matter of :
:
JERRY SCHMETTERER : COIB Case No. 2013-771d
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Respondent. :
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WHEREAS, the New York City Conflicts of Interest Board (the “Board”) commenced an enforcement action pursuant to Section 2603(h)(1) of the City of New York’s conflicts of interest law, Chapter 68 of the New York City Charter (“Chapter 68”), against Jerry Schmetterer (“Respondent”); and

WHEREAS, the Board and Respondent wish to resolve this matter on the following terms,

IT IS HEREBY AGREED, by and among the parties, as follows:

1. In full satisfaction of the above-captioned matter, Respondent admits to the following:
 - a. From August 27, 2001, to January 1, 2014, I was employed by the Office of the Kings County District Attorney (“KCDA”) as Director of Public Information. Throughout that time, I was a “public servant” within the meaning of and subject to Chapter 68.
 - b. From on or about July 2012 until October 1, 2013, I performed unpaid work for the re-election campaign of then-Kings County District Attorney Charles Hynes (“the Campaign”).
 - c. During this time period, I used my KCDA email account and my KCDA computer, often during my KCDA work hours, to communicate regarding Campaign matters with Hynes as well as with Campaign Manager Dennis Quirk; paid Campaign staffers George Arzt, President of George Arzt Consulting, Inc. (consulting for the Campaign); and Scott Levenson, President of The Advance Group (consulting for the Campaign), as well as others.
 - d. During this time period, I frequently used my KCDA email account and my KCDA computer, often during my KCDA work hours, to:

- i. Inform Hynes of Campaign-related news and update him on internal Campaign issues;
- ii. Transmit draft Campaign statements I had written and provide my comments and/or approval of Campaign press releases to Hynes and the Campaign; and
- iii. Communicate regarding the handling and analysis of Campaign issues such as polling, media reporting, debate preparation, and requests for Campaign interviews and debates.

e. Although I did not know it at the time, I acknowledge that, by performing work for the Campaign at times when I was required to perform work for KCDA, I used City time for a non-City purpose in violation of City Charter § 2604(b)(2), pursuant to Board Rules § 1-13(a), which state respectively:

No public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties.

Except as provided in subdivision (c) of this section, it shall be a violation of City Charter § 2604(b)(2) for any public servant to pursue personal and private activities during times when the public servant is required to perform services for the City.

f. Although I did not know it at the time, I acknowledge that, by performing work for the Campaign using my KCDA email account and my KCDA computer, I used City resources for a non-City purpose in violation of City Charter § 2604(b)(2), cited above, pursuant to Board Rules § 1-13(b), which states:

Except as provided in subdivision (c) of this section, it shall be a violation of City Charter § 2604(b)(2) for any public servant to use City letterhead, personnel, equipment, resources, or supplies for any non-City purpose.

2. The Board considered prior cases in which public servants misused a comparable amount of City time and resources for political campaigns; that Respondent engaged in these improper activities at the request of his superior, the Kings County District Attorney; and Respondent's high-level position as KCDA Director of Public Information in determining that the appropriate penalty in this case is a fine of Six Thousand Dollars (\$6,000).

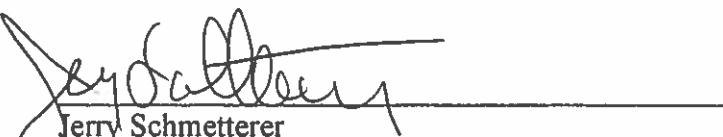
3. Respondent agrees to the following:

- a. I agree to pay a fine of Six Thousand Dollars (\$6,000) to the Board by money order or by cashier, bank, or certified check, made payable to the "New York City Conflicts of Interest Board," at the time of my signing this Disposition.
- b. I agree that this Disposition is a public and final resolution of the Board's charges against me.
- c. I knowingly waive on my behalf and on behalf of my successors and assigns any rights to commence any judicial or administrative proceeding or appeal before any court of competent jurisdiction, administrative tribunal, political subdivision, or office of the City or the State of New York or of the United States, and to contest the lawfulness, authority, jurisdiction, or power of the Board in imposing the penalty which is embodied in this Disposition, and I waive any right to make any legal or equitable claims or to initiate legal proceedings of any kind against the Board, or any members or employees thereof relating to, or arising out of, this Disposition or the matters recited therein.
- d. I confirm that I have entered into this Disposition freely, knowingly, and intentionally, without coercion or duress and after having been represented by an attorney of my choice; that I accept all terms and conditions contained herein without reliance on any other promises or offers previously made or tendered by any past or present representative of the Board; and that I fully understand all the terms of this Disposition.
- e. I agree that any material misstatement of the facts of this matter, including of the Disposition, by me or by my attorney or agent shall, at the discretion of the Board, be deemed a waiver of confidentiality of this matter.

4. The Board accepts this Disposition and the terms contained herein as a final disposition of the above-captioned matter only, and affirmatively states that, other than as recited herein, no further action will be taken by the Board against Respondent based upon the facts and circumstances set forth herein, except that the Board shall be entitled to take any and all actions necessary to enforce the terms of this Disposition.

5. This Disposition shall not be effective until all parties have affixed their signatures below.

Dated: February 28, 2018



Jerry Schmetterer
Respondent

Dated: February 28, 2018



Dianne E. Malone
Amoroso & Associates, P.C.
Counsel for Respondent

Dated: 3/23, 2018



Richard Briffault
Chair
NYC Conflicts of Interest Board